

# KPS CONSULTING

“Building an Access Bridge in Technology and Telecommunications”

2120 L Street, NW  
Suite 400  
Washington, DC 20007  
202.478.6148

[kpsconsulting@starpower.net](mailto:kpsconsulting@starpower.net)

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May 25, 2004

By electronic filing:

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **Ex Parte Presentation**  
CG Docket No. 98-67

Dear Ms. Dortch:

On May 24, 2004, the undersigned, on behalf of Communication Service for the Deaf, Inc. (CSD), met with Commissioner Copps and Jessica Rosenworcel to discuss the Commission's handling of the video relay service (VRS) rate and matters of functional equivalency. The following points were made:

- CGB issued its June 2003 Order without any notice and comment from the public, and with less than 24 hours notice to providers and consumers. The Bureau also exceeded its delegated authority with respect to issuance of that Order.
- The consequence is that VRS is no longer functionally equivalent, with reduced hours and long waiting times. Hundreds of consumers have filed comments to complain about their extreme dissatisfaction with the present state of video relay services.
- VRS consumers and providers wish to have the FCC eliminate the VRS waiver for answer speed, reimburse providers for video mail, and permit R&D costs related to VRS.
- CGB has inappropriately applied a rate of return on investment to a competitive, service-oriented high risk industry even though this cost recovery methodology is more typically applied to regulated monopolies or telephone

incumbents that have a significant telecommunications infrastructure with large amounts of capital.

- NECA seems to have based its new rate - a rate that is even lower than that adopted by CGB last year - on CGB's June 2003 Order, but CGB has offered no guidance whatsoever on what expenses are reimbursable. NECA's methodology is questionable since it is also not clear what the new rate is based on.
- NECA's new rate, allowing what appears to be a 1.4% return, is discouraging providers from wanting to continue providing VRS, because they do not wish to take a loss on this business.

Sincerely,

Karen Peltz Strauss

Karen Peltz Strauss  
Attorney for CSD